22

1947-48 File No. 8541/36

B CLASS — t. & W. DEPARTMENT Rel. BRANCH (1)

Subject:— Public Utility Concerns.

Sale of electric powers to easily accesible areas outside the border of the Province

Information re:— required by the Govt. of India.

IV

B K 1947

Rel. (1)

File No. 8541/36

Ltd. Scott. Slip. 91 A

Std. Sectt. 78 o.

G.R., G.D., No. 2408, dated 22-6-22.]

Correspondence

DOCKET SHEET

Subject :—

File No. 8541/3 B.

P. W. **DEPT.**

Pl. (1) **BRANCH.**

References :—

Copies from the Orignal B. [M]

Date.	To whom sent.	Notes and instructions.

GOVERNMENT OF INDIA
DEPARTMENT OFWORKS, MINES AND POWER

No.EI(II)/54(72) New Delhi, the 11th March 1947.

From

S. Neelakantam, Esquire, MBE.,
Deputy Secretary to the Government of India,

To

All Provincial Governments (except N.W.F. & Bengal 1)
and Chief Commissioners.

Subject:- Effect of Section 155 of the Government of India Act 1935 on Public utility extensions.

.....

Sir,

I am directed to address you on the bove subject.

2. Some Provincial Governments have had under consideration proposals tosell power in certain easily accessible areas in the jurisdiction of the other Provincial Governments wth the consent of the latter either because the latter are unable to take the loads on themselves or supply power at economic rates. According to Section 3 of the Indian Income Tax Act, a Provincial Government has to be treated as an individual or an Association of persons; andunder Section 155(I) (a) of the Government of India Act, a Provincial Government is liable to be taxed in respect of profits derived by it fromtrade or business carried on outside its borders. It has therefore been suggested to the Government of India that such a taxation might tend to retard in somecases the coordinated andrational growth of elevtric power on a regional basis, as Provincial and State Boundries do not always coincide with the natural limits of a public utility concern , particularly when these depend on a fixed source of supply in a particular province and that it might deter thelarger provinces fromexploiting fully their power resources unless they are assured of a market outside their boundaries, andthe smaller provinces from buying power from their neighbours unless they areassured of a supply at reasonable.

3.....

3. In order to appreciate fully the difficulties expressed by certain Provincial Governments in the way of export of power beyond territorial boundaries and consider if and what remedial action has to be taken by the Government of India, I am to request that the Government of Madras/etc., may furnish the following information:-

(i) the details of the export, if any, of electric power to another province or state and the extent of tax thereby paid;

(ii) the details of proposals to export power to another Province or State; and the probably amount payable as tax;

and

(iii) the views of the Government of Madras/etc., on the proposal to exempt the Provinces from taxation in respect of such export.

The Government of India would be grateful, if the Government of Madras/etc., could send a reply, if possible by the 15th of April 1947.

I have the honour to be,
Sir,

Your most obedient servant,

Sd/-
(S. Neelakantam)
Deputy Secretary to the Government of India

Copy forwarded to;

1. The Deputy Secretary to the Government of N.W.F.P., Electricity Department, Peshwar.
2. The Secretary to the Government of Bengal, Irrigation and Waterways Department Calcutta. Copy also forwarded to the Electrical Commissioner with reference to his u.o. No.E8102 dated 17th January, 1947.

Sd/-
(M. P. Dube)
Officer on Duty.

'akram'-50-9-3-47-D'

Anti

No. EGO 46 III/2306
Electric Grid Officers,
Foreshore Road,
Bombay 1: 29th March 1947.

To

The Secretary to Government,
Public Works Department, Bombay.

Subject:- Effect of section 155 of the Government of India Act 1935 on Public utility extensions.

References:- Letter No. Nl(II)/54(72), dated 11th March, 1947, from the Department of Works, Mines and Power, copy endorsed to this office under P.W.D. No. 8541/36-Nl.(I), dated 22-3-47

My remarks on the three points referred to in para 3 of the above letter are given below:

(i) At present the Government of Bombay does not export electric power to any other Province or State. It is therefore, not liable to any Central taxation on this account.

(ii) (a) An agreement has been reached with the Baroda Government for supply of bulk power to it from the North and South Gujarat Grid Schemes now under execution. Under the terms of the draft agreement, the Baroda Government is entitled to either pay for the power supply on the basis of station adjusted cost plus proportionate transmission charges or on the basis of rates prescribed by Bombay Government, but guaranteed to be less than overall cost of corresponding supply obtainable from modern steam stations established in Baroda territory. The agreement although of mutual advantage to both parties is not expected to yield any tangible profit.

(b) Bulk power may be supplied to other States in Gujarat from the schemes referred to under (a) above, although no such proposal is under active consideration at present. However, power supply to these States may yield some profit to the Grid Department.

(c) Bulk power may also be supplied to various States in the Deccan when the Koyna Hydro Electric Scheme is completed after.....

is completed after about seven or eight years. As this is too far in the future it may not be considered at present.

(iii) (a) So far as Bombay Government is concerned it is proposed to set up an Electricity Board under the provisions of the Electricity (Supply) Bill 1946 when it is enacted. It is expected that this Board will be set up before the Gird Department commences power supply to Baroda and other Gujarat States.

(b) Under the provisions of Section 78 of the Electricity (Supply) Bill 1946 the Board is exempt from liability to pay any tax on income, corporation tax or any other like tax levied by the Central Government.

(c) The question of paying taxes to the Central Government on profits accruing from export of electricity to neighbouring States will arise in this Province after a few years, only if, for any reasons, the Board mentioned above is not set up and Bombay Government continues to administer the Grid Department ~~xxxxxxxxxxxxxxxxxxxxxx~~ Meanwhile an answer may be provided by the impending constitutional changes.

(d) I agree with the view that in the interest of co-ordinated and rational growth of Electric Power on a regional basis it would be desirable to exempt provincial Governments from the taxation referred to. It is presumed that it is for this very consideration the Provincial Electricity Boards are proposed to be exempted under the provisions of the above mentioned Bill. There is also the practical difficulty of assessing profit exclusively made from supply of power outside the Provincial boundaries. Very involved calculations will have to be made to segregate that profit and it may be found in many cases, that the expense involved in assessment by experts is greater than the amount of tax leviable or, in some cases, even the amount of profit itself.

Sd/-

Special Officer (Electric Grid)

El. Br.....

~~Edn. Sec.~~ P.W.D.

Submitted with reference to Govt. Endt. on p. 4 ante.

2. The receipt of the El. Engr's reply may be awaited.

Id
31/3/47

Id
31/3/47.

****

No. LRM 31/5020 of 1946-47

P.W.D. Offices, Churchgate St., Fort, Bombay 1.
Dt. 31st March 1947.

To

The Secretary to Government,
Public Works Department, Bombay.

Re:- Effect of Section 155 of the Government of India Act 1935 on Public Utility Extensions.

Ref:- Government, Public Works Department, endorsement No. 8541/36-El(i) of the 22nd March 1947.

The electric power is supplied by Government from the Bhatgar Power Station to the towns of Bhor and Shirwal in the Bhor State for distribution purposes and the amount of energy supplied to these places during the year ending 28th February 1947 is as under:

Bhor	----	8,72,230 units.
Shirwal	----	46,633 units.
		9,18,863 units.

No tax has so far been made by Government.

2. As regards item (ii) in para 3 of Government of India letter, no such proposals are at present in view.

3. Regarding item (iii) it is suggested that the Provincial Government may be exempted from taxation in respect of the exports of ~~xxxx~~ the export of energy for the reasons mentioned in the last sentence of para 2 of the Government of India's letter.

Sd/-

~~Executive~~ Electrical Engineer to Govt.

Below P.W.D. u.o.r. No.8541/38/114376 dated the 5th April 1947.

Electric Grid Offices.

With reference to para. 3 of the P.W.D. office note on page 8 ante, the details of the proposal to supply power in bulk to Baroda Government relevant to the question of taxation are furnished in item (II) (a) of our letter at page 5 ante. The Government of India would not, in my opinion, be interested for the purpose of this reference, in the amount of energy that we have agreed to supply to the Baroda Government. The data is, however, given hereunder:

It has been agreed to supply power to Baroda Government in the first instance upto the maximum demand of.

(a) for Baroda District, 6000 kW
(b) for Navasari " 4000 kW
(c) for Mesana " 4000 kW.

2. The information contained in para. 1 of the Electrical Engineer's letter at page 7 ante gives one the impression that the Bombay Government is engaged in the business of selling power outside the provincial border, but so far it has paid no tax. In my opinion, the Bombay Government is not liable to any income tax on account of sale of power from Bhatagar because power is supplied at the power section to Mr. Thopte, who transmits it outside the provincial boundaries. The Government of Bombay does not directly supply bulk power to the towns of Bhor and Shirwal. In addressing the Government of India, if it is decided to furnish details of this supply, it would be desirable to clearly state the position. In this connection, reference is invited to item (i) on page 5 ante.

Secy. to Govt.,
P.W.D., Bombay.

Id
9/4/47

U.o.r. No. 477/3385
Bombay 1: 9-4-1947.

****

NIK

No. 8541/36-El. Public Works Deptt.,
B.C., April 1947.

To

The Dy.Secy. to the Govt. of India,
Deptt. of Works, Mines and Power,
New Delhi.

Subject:-Effect of Section 155 of the Govt. of India Act, 1935, on public utility extensions.

Sir,

With reference to your letter No.El.(II)/54(72), dated the 11-3-47, on the above subject, I am to state that at present the Govt. of Bombay itself does not export electric power to any other Province or Stat but electric power is supplied from its Bhatgar Power Station to one Mr. Thopate who distributes it to the towns of Bhor and Shirwal in the Bhor State. The amount of energy so supplied to Mr. Thopate during the year ended the 28th Feb. 1947 is 9,18,863 units.

2. An agreement has been reached with the Baroda State to supply bulk power to that State from the North and South Gujarat Electric Grid schemes, which are at present under execution by this Govt. The agreement which is of mutual advantage to both the parties is not expected to yield any taxable profit. It provides for the supply of power to the Baroda State in the first instance as follows:-

6000kW for Baroda Dist.
4000kW for Navsari Dist.
4000kW for Mesana Dist.

3. This Govt. agrees with the view that in the interest of co-ordinated and rational growth of electric power on a regional basis it is desirable to exempt the Provl. Govts. from the taxation referred to. It is presumed that it is for this very consideration that the Provl. Electricity Boards intended to be set up under the provisions of the Electricity (Supply) Bill, 1946 are proposed to be exempted from such taxes - vide Section 78 of the Bill. There is also the practical difficulty of assessing profit exclusively made from supply of power outside the Provl. boundaries.....

boundaries. Very involved calculations will have to be made to segregate that Profit and it may be found in many cases that the expense involved in the assessments by experts is greater than the amount of tax leviable or, in some cases, even the amount of profit itself.

Your obedient servant,

.....

Copy forwarded for information to:-

the Electrical Commr. with the Govt. of Bombay with reference to his No.G.87/3385, dated the 9-4-47,

the El. Engr. to Govt., with reference to his No.LRM. 31/5020, dated the 31-3-47.

Id
12/4/47

u.o. to F.D. before Sbmn.

Id
12/4/47

Id
14/4/47

V. urgent.

u.o. to the F.D; of 14/4/47.

F.D.
A

Seen and returned to the P.W.D.

Id
16-4-47

Please see this correspondence with the H.W.F. Govt. Sec 155 of Govt. of I. Act (pp 279-294) of F.D. file 1327/33/9 below). There seems however no objection to the G. of I. being informed as proposed by P.W.D.

Id
18/4

D.S.(F & R).

Finance Department

While there is no objection to the draft letter to the Government of India (pp. 11-12 ante) being issued there is one preliminary point which, I think, merits further consideration. At page 1 ante it has been stated that according to section 3 of the Income Tax Act a Provincial Government has to be treated as an individual or an association of persons and is therefore liable to income-tax; this statement, however, appears to be contradictory to the ruling given by the R.L.A. in u.o.r. No. .....

the R.L.A. in u.o.r. No. 9224, dated 10-12-45. The relevant proceedings will be found at pp. 279-289 of F.D. File No. 1527/33/9 placed below. R.L.A. may therefore kindly see the papers again and state if the contention of the Govt. of India is correct. If the correct position is as discussed in the F.D.File referred to above them, I think, Govt. of India should be informed about our view on this point.

Id 14/5/47

with F.D. File No. 1527/33/9 u.o.r. to R.L.A. dt. 15.5.47.

Office of the R.L.A.

Section 155 occurs in Chapter I. - Finance. Distribution of Revenue between the Federation and the Federal Units in part VII relating to Finance, Property, Contracts and Suits. The Proviso to that section is therefore merely an enabling provision, indicating to what extent a Province is exempt from federal taxation and to what extent it is not so exempt. The provision contained in sub-section (1) of section 155 of the Government of India Act, 1935, does not by itself make this part of the trade or business of the Province liable to income-tax, unless the Act concerned of the Federal Legislature, namely, the Indian Income-Tax Act makes specific provision on that point. Turning to section 3 of the Indian Income tax Act, 1922, we find that only the persons specifically mentioned in that section, namely, individuals, Hindu undivided families, Companies, Local Authorities, Firms, or other Associations of persons or the partners of the firm or members of the Association individually, are liable to income-tax. The Government of India's letter assumes that a Provincial Government has to be treated as an individual or an association of persons. That assumption seems incorrect. The word individual in this context does not mean a legal entity; and the expression

other associations.....

other associations of persons would have to be ordinarily construed *ejusdem generis* with the previous word especially in that setting. The very fact that local authority is separately specified supports the view that the expressions "individuals or association of persons" are not to begiven the artificial meaning which the Government of India's letter seeks to give to them. As the Provincial Government does not fall under any of the categories mentioned in this charging section, the Province is at present not liable to income-tax under the Indian Income tax Act even in respect of the trade or business carried on by it or on its behalf outside the Provinces.

Sd/-
18/6/47

Remembrancer of Legal Affairs.

U.R. to F.D., No. 6347 , dated the 19th June 1947.

Finance Deptt.
'A'

Submitted with reference to the D.S. (F. & R)'s note dt. 14-5-47.

Id
21-6-47

It will be seen from the R.S.A's opinion that the assumption made by the Govt. of India to the effect that the Provincial Govt. has to be treated as an individual or an association of persons, is not seems to be incorrect. As desired by D.S.(Mr. M.) this position may be brought to the notice of the Central Govt. The P.W.D. may be requested to award the draft letter on page 11 ante suitably for this purpose.

3. A copy of R.L.A's opinion may be kept in F.D. file no. 1527/37 9 alongwith the pp. dealing with the correspondence with the N.W.F. Govt.

Id
23/6

Id
24/6/47

The question of liability of public utility underbeings of Provl. Govts. to Central taxation, particularly to income-tax was separately considered by this Deptt. and with this approval of F.D.....

of F.D. & H.P.M., the accompany memorandum letter has been addressed to this Secy of expert Committee. the set up by him the constituents Assembly to consider this division of financial resources between the Centre & the Provinces. The letter explains the policy of this Govt. and the arguments therein show the necessity for provd undertakings being exempted for Central Taxation. The P.W.D. may refer to this refreercutation in main reply to him Govt. Copies of this refreratation are enclosed.

Id
26/1/48

u.o.r. to P.W.D. dt. 29/1/48.

No. 7125/33-D. Finance Department,
Bombay Castle, 21st January 1948

From

B. VENKATAPPIAH, ESQUIRE, I.C.S.,
Secretary to the Government of Bombay,
Finance Department.

To.

M.V. Rangachari, Esquire,
Secretary to the Expert Committee on
Finance, Ministry of Finance,
Government of India, New Delhi.

Subject:- Income-tax ;
Liability of Provincial Governments to--

Sir,

The attention of the Government of Bombay has been drawn to the Press reports of Mr. Shanmukham Chetty's addre ss to the South Indian Chamber of Commerce, Madras, wherein the Finance Minister is reported to have revealed that he had suggested to your Committee that, when any Provincial Government took up a trading activity, it should pay to the Central Government income- tax and other taxes in the same manner as a company or a private individual now pays these taxes. The Government of Bombay notes that this suggestion goes beyond the provisions of Section 155 of the Government of India Act, 1935, whereunder the Provincial Governments are not required to pay tax on their incomes, provided that such incomes are derived from activities.....

provided that such incomes are derived from activities restricted to their respective territories. From the provincial point of view, even the present position is not satisfactory and representations were made to the Government of India, by the Provincial Governments in 1945-46, e.g. by the Governments of the Nor North West Frontier, Madras, Bihar and Orissa, urging the repeal of proviso (a) to Section 155(1) of the Government of India Act, 1935. This Government did not represent at that time as it was advised that, despite the provisions of Section 155 of the Government of India Act, the Central Government could not make even those incomes of Provincial Governments which were derived from an extension of their trading activities beyond their own territories chargeable to income-tax without first amending the Income-tax Act, and that the proper time for any representation would be when and if the Central Government brought in proposals to amend the Income-Tax Act so as to make such incomes of Provincial Governments chargeable to income-tax. Thus, while this Government along with other Provincial Governments has been opposed to the existing proviso (a) to section 155(1) of the Government of India Act, 1935, the recently reported suggestion of the Finance Minister of the Government of India goes farther than even that proviso and seeks to tax all trading incomes of Provincial Governments, irrespective of whether the trading is restricted to or extends beyond the territory of the particular Province. The Government of Bombay desires to express its emphatic opposition to any such suggestion, and to reiterate its agreement with the representation previously made by certain Provinces regarding the desirability of deleting proviso (a) to Section 155(1).

3. The suggestion reported to have been made by the Finance Minister appears to have been based on the following assumptions

(i) that if taxes on a private company are a proper payment, they are no less proper charges against Government undertakings and

(ii) that the exemption from tax of Government undertakings

involves.....

involves considerable loss to the Central revenues.

As regards the first assumption, it need only be pointed out that it is directly in contravention of the policy of nationalisation and that to act upon it would be to give definite discouragement to the process of nationalisation which has already been initiated and is progressing in several Provinces. In regard to the second assumption, it may be pointed out that unless that Provincial Governments are allowed to appropriate the full income from their public utility undertakings, without a share of it being taken away by the Central Government through taxation, there will be no material financial gain to the Provinces from embarking on a policy of nationalisation of public utility and other concerns, and to that extent there will be increased Central liability in the matter of subsiding the Provinces.

4. It may further be noted that the Central Government for its part, enjoys exemption from provincial measures of taxation such as the motor vehicles tax, electricity duty, and the urban immovable property tax. The policy of exemption has thus been a mutual one.

5. For the reasons specified above, the Government of Bombay feels that instead of withdrawing the exemption granted at present to Provincial Governments under Section 155 of the Government of India Act, 1935, there is a strong case for liberalising it by repeal of proviso (a) of that section.

Your Obedient servant,

Sd/-

Secretary to the Government of Bombay,
Finance Department.

Copy to:-

The Secretary to the Ministry of Finance,
Government of India.

The Secretary, Finance Department,
Government of Madras.

The Secretary, Finance Department.....

The Secretary, Finance Department,
Government of Central Provinces,

The Secretary, Finance Department,
Government of West Bengal,

The Secretary, Finance Department,
Government of East Punjab,

The Secretary, Finance Department, Government of
United Provinces,

The Secretary, Finance Department, Government of
Assam,

The Secretary, Finance Department, Government of
Bihar,

The Secretary, Finance Department, Government of
Orissa.

****

Government of India.
Department of Works, Mines and Power.

No.EI(II)/54(72) Dated New Delhi, the 19th April 1947.

From

N.P. Dube Esquire,

Officer on Special Duty.

To

Governments of Madras, Bombay, United Provinces,

Punjab, Bihar and Orissa.

Subject:- Effect of Section 155 of the Government of India Act
1935, on Public utility extensions.

Sir,

I am directed to invite reference to paragraph 3 of this Department letter No. EI(II)/54(72) dated the 11th March 1947 on the above subject and to request that a reply there to may please please be expedited.

I have the honour to be,

Sir,
Your most obedient servant,

Sd/-

(N.P. Dube)
Officer on Special Duty.

****

No. 8541/36-El.

8541/36
5133

P.W.Deptt.
B.C., 7th February 1948.

To

The Under Secretary to the Government of India,
Ministry of Works, Mines & Power,
New Delhi.

Subject:- Effect of Section 155 of the Govt. of India Act 1935 on public utility extensions.

Sir,

I am to refer to the correspondence ending with this G.L. No. 8541/36.El., dated the 5th January. 1948, and to state that a reply to your letter No. EI(II) 54(72), dated the 11th March 1947, on the above subject could not, it is regretted, be sent earlier as the question of liability of public utility undertakings of Provl. Govts. to Central taxation, particularly to income-tax was under examination of this Govt. A copy of this Govt. letter in the F.D., No. 7125/33-D. dated the 21-1-48, addressed to the Secy. to the Expert Committee on Finance, Ministry of Finance, Govt. of India, on the subject is now enclosed for your information. The ~~xxxxxx~~letter explains the policy of this Govt. and the arguments therein show the necessity for Provl. undertakings being exempted from Central Taxation.

2. As regards the other information refd. to in your letter of 11th March 1947, I am to state that at present the Govt. of Bombay itself does not export electric power to any other Province or State but electric power is supplied from its Bhatgar Power Station to one Mr. Thopate who distributes it to the towns of Bhor and Shirwal in the Bhor State. The amount of energy so supplied to Mr. Thopate during the year ended the 28th Feb. 1947 is 9,18,863 units. Further an agreement has been reached with the Baroda State to supply bulk power to that State from the North and South Gujarat Electric Grid Schemes, which are at present under execution by this Govt. The agreement which is of mutual advantage to both the parties is not expected to yield any taxable profit. It provides for the

supply.....

supply of power to the Baroda State in the first instance as follows:-

6000 kW for Baroda Dist.

4000 kW for Navsari Dist.

4000 kW for Mesana Dist.

Your obedient servant,

Sd/-

D.A.- Copy of Letter.

Copy, with a copy of the Govt. of India letter under reply for information to the F.D.

Id
3/2/48

Id
3/2/48

Id
3/2/48.

****

NLK

P.W.D.

GOVERNMENT OF INDIA
MINISTRY OFWORKS MINES & POWER.
****

No. EL-II/54(72). New Delhi, dated the 28th April 1948.

From

N. P. Dube, Esquire,
Under Secretary to the Govt. of India.

To

The Chief Secretary to the Govt. of Bombay,
Political and Services Department,
Bombay.

Sub: Effect of Section 155 of the Government of India Act 1935 on Public Utility Extensions.

Sir,

I am directed torefer to this Ministry's letter No. EL-II/54(72) dated the 11th March 1947 on the above subject and to say that the question as to whether or not the income derived from trading in Electricity will be taxable is expected to be decided by the Constituent Assembly of India (Legislative) at its next Session when it takes up the Select Committee Report on the Electricity (Supply) Bill, 1948. A copy of the Select Committee Report is enclosed for your information.

I have the honour to be,

Sir,

Your most obedient servant,

Sd/-

(N. P. Dube)

Under Secretary to the Govt. of India.

****

NLK

8541/38
21444

El. Br.

P. W. Deptt.

Submitted for information with ref. to G.L. No. 8541/36-El, dt. the 7-2-1948.

2. In their letter dt. the 11-3-47, the G. of I. invited inter-alia the views of this Govt. on the question whether Provl. Govts. should be exempted from the Central Taxation in respect of export of power to another Province or State. This Govt. expressed its view in favour of the proposal vide G.L. No. 8541/36-El. dt. the 7-2-1948. The G. of I. now inform that the question as to whether or not the income derived from trading in electricity will be taxable is expected to be decided by Constituent Assembly of India (Legislative) at its next Session when it takes up Select Committee's Report on the Electricity(Supply) Bill 1948.

3. Section 78 of the Electricity (Supply) Bill, 1948 as introduced in the Constituent Assembly and reproduced) below* exempted the Board from the Central Taxation.

*"78. Exemption of Board from Central Taxation

Notwithstanding anything contained in any other law for the time being in force, the Board shall be exempt from ~~xxxx~~ liability to pay any tax on income, corporation Tax or any other like Tax levied by the Central Govt." The Select Committee does not however think that there is justification for exempting the Board from Central Taxation. They have therefore altered the clause so as to make the Board liable to income tax and super tax like a Coy. Within the meaning of the Indian Income-Tax Act. The altered clause is as follows:-

"80- Provision Relating to income tax and Super tax:-

(1) For the purposes of the Indian Income Tax Act, 1922 (XI of 1922) the Board shall be deemed to be a coy. within the meaning of that Act and shall be liable to income tax and super tax accordingly on its income, profits and gains.....

gains.

(2) The Provl. Govt. shall not be entitled to any refund of any such taxes paid by the Board."

4. A copy of the Govt. of India-letter may be forwarded to the F.D. and the El. Commr. as per draft put up for appl. and this note may then be submitted to the H.M., P.W.D., for information.

Id
3/5/48

Id
3/5/48

Id
4/5/48

P.W.D.

El. Br.

Resubmitted.

2. The endt. on p.12/ post has been issued. The papers may now be submitted to the H.M. for information.

Id
6/5/48

Id
6/5/48

We should send a strong protest against H.M. P.W.D. the action of the Central Govt. it should go before the end of May. I should like to see a draft.

Id
10/5/48

Id
16/5/48

****

Below copy of G.of I., Ministry of Works, Mines & Power, letter No. El.II/54(72), dt. the 20-4-48.

No.8541/36-El. P.W.Deptt.,
B.C., 5th May 1948.

Copy forwarded to the F.D. for information with ref. to this Deptt. Endt. No. 8541/36-El., dt. the 7-2-48.

2. The Select Committee's Report refd. to is republished in the B.G.G. Supplement No. 16, dt. the 15-4-48, under this Deptt. Notification No. 6730/36(1)-El., dt. the 31-3-48.

By order etc.,

Copies.....

Copies also for information to the El. Commr. with the Govt. of Bombay with ref. to the Correspondence e ending with his No. G.77/3383, dt. the 9.4.47.

Id
3-5-48

Id
3.5.48

Id
4.5.48.

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NLK.

No. 8541/36-El. Public Works Deptt.,
B.B., 24th May 1948.

From

N. P. Gurjar, Esquire, B.E., I.S.E.,
Secy. to the Govt. of Bombay,
Public Works Deptt. (Irrign.).

To

The Secy. to the Govt. of India,
Ministry of Works, Mines and Power,
New Delhi.

Subject:- Effect of Section 155 of the Govt. of India Act, 1935, on Public Utility Extensions.

.....

Sir,

I am to refer to the correspondence ending with your letter No. El. II/54(72), dated the 20-4-48, on the above subject, and to observe that clause 78 of the Electricity (Supply) Bill, as introduced in the Constituent Assembly of India (Legislative), provided that notwithstanding anything contained in any other law for the time being in force, the (Provincial Electricity) Board shall be exempt from liability to pay any tax on income, Corporation tax or any other like tax levied by the Central Govt. This provision was obviously made in the interest of co-ordinated and rational growth of electric power on a regional basis. The Select Committee in their report on the Bill, however, observe that they do not think that there is justification for exempting the Board from Central taxation and have accordingly altered the clauses so as to make the Board liable to income tax and super tax like a company within the meaning of the Indian Income Tax Act - vide clauses 80 of the Bill as amended by the Select Committee.

2. The Select Committee have not given specific reasons for their view in the matter. It is also not known whether the Govt. of India had placed before the Select Committee this Govt. Letter in the Finance Deptt. No. 7125/33-D, dated the 21-1-48, to the Secy. to the Expert Committee on Finance, Ministry of Finance, expressing this Govt's

*copy enclosed with G.L.No. 8541/36-El., dt. the 7.2.48 to your address.

emphatic.....

emphatic opposition to the suggestion to make public utility undertakings of Provl. Govts. liable to Central taxation. From the minute of dissent of Mr. T.T. Krishnamachari to the Select Committee's report it seems that the change is made because the Expert Committee appointed by the Constituent Assembly has recommended the taxation of industrial and trading undertakings of Provl. Govts. This Govt. doubts the advisability of including a question of such far reaching constitutional importance in the Electricity (Supply) Bill before it is finally decided by the Constituent Assembly at the time of enacting the Constitution Act. Actually there would seem to be no need for such a provision in the Electricity (Supply) Bill as whatever the Constitution Act will provided about the taxation or otherwise of these activities of Provl. Govts. would apply force the issue to the detriment of the Provinces, this Govt. strongly urges that the clause regarding taxation may be deleted altogether from the Electricity (Supply) Bill and the question of taxation of these undertakings left to be decided by the Constituent Assembly when enacting the Constitution Act.

without the necessity of a specific provision therefore. As the select committee's recommendation will only.

D.A.-Nil.

Your obedient servant,

Copy forwarded forinformation to -

the Finance Deptt.,

the Elecl. Commr. with the Govt. of B'bay.

with reference to Govt. Endt. No. 8541/36-El., dated the 5-5-48.

Id
20/5/48

Id
20/5/48

Id
22/5/48

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NIK